



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,004	12/27/2004	Andre Derouet	Q85295	7593
23373 7590 12/29/2008				
SUGHRUE MION, PLLC				
2100 PENNSYLVANIA AVENUE, N.W.				
SUITE 800				
WASHINGTON, DC 20037				
EXAMINER				
HONG, JOHN C				
ART UNIT		PAPER NUMBER		
3726				
MAIL DATE		DELIVERY MODE		
12/29/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/519,004

Applicant(s)

DEROUET, ANDRE

Examiner

JOHN C. HONG

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 6-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 13, 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's election with traverse of claims 1-5, 13 and 14 in the reply filed on 9/18/08 is acknowledged. The traversal is on the ground(s) that the species I, Figs 1-7 show claims 1-5, 13 and 14. This is found persuasive. The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP10175230.

Regarding Claim(s) 1, '230 discloses a system for molding and assembling the system comprising two cavity molds for molding two different parts of the fluid dispenser device, the system being characterized in that the first part is a spray head and the second part is an insert for assembling in the spray head, the system comprising means for assembling parts coming from each of the cavity of the first cavity mold always with parts coming from a corresponding respective cavity of the second cavity mold, such that the same insert is always assembled in the same spray head, thereby guaranteeing constant spraying performance for each dispenser device assembled from the same pair of cavities (Abstract; Figs. 1 and 2).

'230 fails to teach the first multi-cavity mold of the two multi cavity m each of the cavities of the first multi-cavity mold in pairs always with parts coming from a corresponding respective cavity of the second multi-cavity mold olds.

But the addition of multiple cavities to the mold for a multiplied effect is well known in the art and It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilized the mold of '230 so as to achieve a multiplied effect.

"Duplicate parts for a multiple effect is not the type of innovation for which a patent monopoly is to be granted." St. Regis Paper co. v. Bemis Co., Inc., 193 USPQ 8, 11 (7th Cir. 1977).

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

'230 teaches : Regarding Claim 2, a system for molding and assembling a fluid spray device, the system comprising two multi-cavity molds for molding two different parts of the fluid dispenser device, the system being characterized in that the first part is a spray head and the second part is an insert for assembling in the spray head ,the system comprising means for assembling parts coming from each of the cavities of the first multi-cavity mold in pairs always with parts coming from a corresponding respective cavity of the second multi-cavity mold, such that the same insert is always assembled in the same spray head, thereby guaranteeing constant spraying performance for each dispenser device assembled from the same pair of cavities (Abstract); Regarding Claim(s) 3, the molding and assembly of the head and the insert are performed in a common molding and assembly unit, the molding and assembly unit comprising: a first mold portion and a second mold portion that are movable in translation towards each other

to close and open the molding and assembly unit ; the first mold portion defining part of a first multi-cavity mold, and including a core plate defining part of a second multi-cavity mold, the core plate being mounted to turn about the translation axis of the molding and assembly unit, and the second mold portion defining part of a second multi-cavity mold, and including a cavity plate defining part of the first multi-cavity mold, the cavity plate being mounted to rotate about the translation axis of the molding and assembly unit ; and the core plate being offset perpendicularly from the translation axis of the molding and assembly unit relative to the cavity plate in such a manner that the two plates overlap each other in part so as to define an assembly zone, and are partially offset from each other so as to define the two respective multi-cavity molds (Abstract) ; Regarding Claim(s) 4, each of the core and cavity plates has at least two mold cavities disposed in such a manner that when the molding and assembly unit is closed, at least one cavity is situated in the assembly zone and at least one cavity is situated in the corresponding multi-cavity molds (Abstract); Regarding Claim(s) 5, each cavity of the core plate is always situated facing the same corresponding cavity of the cavity plate (Abstract).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by

JP10175230.

'230 discloses :Regarding Claim(s) 13, a system for molding and assembling a fluid dispenser device, comprising: a first mold comprising cavities for molding spray heads; a second mold comprising cavities for molding inserts configured to be assembled in the spray heads; means for assembling spray heads from the cavities of the first mold always with inserts from the second mold inserted in the spray heads, such that the same insert is always assembled in the same spray head (Abstract; Figs. 1 and 2);

A claim containing a "recitation with respect to the manner in which a claimed apparatus is **intended to be employed does not differentiate** the claimed apparatus from a prior art apparatus" **if the prior art apparatus teaches all the structural limitations of the claim**. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

Regarding Claim(s) 14, the means for assembling comprises a first mold portion and a second mold portion, the first mold portion rotatable relative to the second mold portion so that, upon rotation of the first mold portion relative to the second mold portion, the molded inserts are aligned with the molded spray heads and insertable into the molded spray heads by bringing the first mold portion relatively closer to the second mold portion (Abstract; Figs. 1 and 2).

Response to Arguments

Applicant's arguments filed 9/18/08 have been fully considered but they are not persuasive. Applicant argued the '230 reference does not teach the manufacturing of spray heads and inserts, but A claim containing a "recitation with respect to the manner in which a claimed apparatus is **intended to be employed does not differentiate** the claimed apparatus from a prior art apparatus" **if the prior art apparatus teaches all the structural limitations of the claim**. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN C. HONG whose telephone number is 571-272-4529. The examiner can normally be reached on M-F 9:00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID BRYANT can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOHN C HONG/
Primary Examiner, Art Unit 3726

Jh
12/22/08